(8) CF-I

BEFORE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. 2345 /2004

PETITIONER : Kush Kumar Sharma S/o Shri Durga Prasad Sharma,
R/o 429, Yadunandan Nagar, Tifra,
Tahsil & District - Bilaspur (C.G.).

Versus.

RESPONDENTS (1) Regional Transport Authority
Raipur (C.G.).

(2) Secretary
Regional Transport Authority
Bilaspur (C.G.)

(3) Mahadev Transport Service,
Service Station Road, Champa
District Janjgir (C.G.).

(4) State Transport Appellate Tribunal, Raipur (CG)

P.R. No. 2335/04
Presented by Shri Rajesh Sharma
dated 2-8-04

RECEIVED-COPY
2/8/04
Clerk to A.G. Bilaspur

Writ petition under Article 226/227 of Constitution of India:

XI-HC—78

(18)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.2345/ सन् 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	8.2.2005 Shri Ajay Shrivastava, counsel for the petitioner. Shri N.K. Agrawal, Deputy Advocate General for the State/ respondents No.1 and 2. Shri B.K. Rawat, counsel for respondent No.3. The petitioner has preferred this writ petition under Article 226/ 227 of the Constitution of India, being aggrieved by the order dated 22.6.2004 (Annexure P-1) passed by the State Transport Appellate Tribunal, Raipur, whereby the learned Tribunal rejected the revision filed by the petitioner herein on the ground of limitation, and it has also been mentioned that the permit of respondent No.3 is overlapping only on the route from Shivrinarayan to Pamgarh, and apart from that the routes of the petitioner and respondent No.3 are different. I have heard learned counsel for the parties. Learned counsel for the petitioner submitted that the petitioner filed an application before the STAT supported by an affidavit that the permit was granted to respondent No.3 herein on 29.9.2003, whereas, the petitioner came to know about the grant of permit on 5.3.2004, thereafter, he applied for the copy and received copy on 9.3.2004 and the revision was filed on 5.4.2004. Learned counsel further submits that this fact was not controverted by the respondents, therefore, the learned Tribunal ought to have accepted the affidavit of the petitioner.	

(19)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.2345/ **सन्** 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Having heard learned counse for the parties, I have perused the record. The petitioner claimed that he came to know about the order dated 29.9.2003 only on 5.3.2004 i.e. after five months and seven days. The learned Tribunal has observed that this fact, prima facie, is not believable for the reason that the petitioner was already operating the bus on the said route and respondent No.3 started operated the bus on 1.11.2003. Therefore, when the bus of respondent No.3 was continuously operating from 1.11.2003, in the circumstances, it cannot be believed that this fact did not come to the notice of the petitioner herein. The reason assigned for rejection of the application under Section 5 of the Limitation Act, appears to be sound and reasonable, and when respondent No.3 started operating his bus on 1.11.2003, then it cannot be said by any stretch of imagination that it did not come to the petitioner's knowledge. The limitation for filing revision before the STAT was 30 days, whereas the revision was filed about six months after the grant of permit. Therefore, the revision was hopelessly time barred. Learned counsel for the petitioner relied on the decision of the M.P. High Court in the matter of **Suresh Singh v. Dinanath** reported in **1986-II MPWN 147**. But, the above case is distinguishable on the facts for the reason that in that case, the applicant submitted an application for condonation of delay under Section 5 of the Limitation Act, on the ground that he was operated upon for birth control and on	

Gr. PRJ—FS/350—12/2000—50,000.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.2345/ **सन्** 2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	account of that he was indisposed and could not obtain the copy within the period of limitation, that fact was not controverted, that is why the Court observed that the application ought to have been allowed. But, in the present case, the facts are entirely different. When the bus of respondent No.3 started operating on 1.11.2003, it cannot be said that the petitioner came to know about the permit, ~~endorse~~ only on 5.3.2004 i.e. after four months he came to know about the same. Even otherwise, on the merit also as has been observed by the learned Tribunal routes of the petitioner and respondent No.3 are entirely different, and the permit, which has been granted to respondent No.3, is from Korba to Bhatgaon whereas, the permit of the petitioner is from Bilaspur to Kera, and respondent No.3's permit overlaps on the route of the petitioner only between the places from Shivrinarayan to Pamgarh i.e. 25 Kms. Therefore, in view of the above, I am of the opinion that the petitioner has not been able to make out a case for invoking the extra ordinary jurisdiction by this Court under Article 227 of the Constitution of India, and to interfere with the order passed by the STAT, Raipur. Accordingly, the writ petition is dismissed. No costs. **Sd/-** **L.C. Bhadoo** **Judge**	
Soma		

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16.2.05

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